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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 ALEX DANIEL TARABOCHIA, et al.,

10 Plaintiffs,

11 v.

12 F.B.I. Special Agent MICKEY ADKINS,
13 et al.,

14 Defendants.

CASE NO. C10-5197BHS

ORDER DENYING
DEFENDANTS' MOTION
FOR RECONSIDERATION

15 This matter comes before the Court on Defendants Mike Cenci, Dan Chadwick,
16 Brett Hopkins and Brad Rhoden's ("Defendants") motion for reconsideration (Dkt. 80).
17 The Court has considered the pleadings filed in support of the motion and the remainder
18 of the file and hereby denies the motion for the reasons stated herein.

19 **I. PROCEDURAL HISTORY**

20 On June 1, 2010, Plaintiffs Alex Daniel Tarabochia, Bryan Anthony Tarabochia,
21 Joseph Burton Tarabochia, and Matthew Alexander Tarabochia filed a complaint against
22 Defendants Mickey Adkins¹, Mike Cenci, Dan Chadwick, Brett Hopkins and Brad
23 Rhoden. Dkt. 7 ("Complaint"). Plaintiffs allege violations of their rights under the
24 Fourth, Sixth, and Fourteenth Amendments to the Constitution. *Id.*
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27 ¹ On October 6, 2010, Plaintiffs informed the Court that they did not serve Agent Adkins
28 and that they would not be pursuing their claims against Agent Adkins. Dkt. 17 at 1-2.

1 On May 20, 2011, Defendants Mike Cenci, Dan Chadwick, Brett Hopkins and
2 Brad Rhoden (hereafter “Defendants”) filed a motion for summary judgment. Dkt. 50.
3 On August 9, 2011, the Court issued an order granting in part and denying in part
4 Defendants’ motion. Dkt. 77. On August 10, 2011, Defendants filed a motion for
5 reconsideration. Dkt. 80.

6 **II. FACTUAL BACKGROUND**

7 Joseph Tarabochia (“Joseph”) claims that he has been a commercial fisherman his
8 entire life and that he has a long history of interactions with Washington State Fish and
9 Wildlife (“WSFW”) officers. Dkt. 67, Declaration of Joseph Tarabochia (“Tarabochia
10 Decl.”) at 1. Joseph asserts that approximately 11 years ago, Defendant WSFW Officer
11 Cenci “began a personal vendetta against [Joseph] and his family.” *Id.* at 2. Joseph
12 recounts a number of incidents to support his accusation, *Id.* at 2-6, and alleges that these
13 previous incidents directly led to the encounter at issue, which is described below.
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15 On March 23, 2007, Defendants were working as WSFW officers near Cathlamet
16 and Skamokawa, Washington along the lower Columbia River. Dkt. 52, Declaration of
17 Dan Chadwick (“Chadwick Decl.”), ¶ 6. Defendants were conducting field inspections,
18 checking commercial gillnet fishermen who were transporting fish, to ensure they had
19 properly filled out transportation or wholesale fish tickets and to ensure that they were not
20 in possession of any prohibited species such as wild Chinook salmon, steelhead or
21 undersize/oversize sturgeon. *Id.* Officer Cenci, Deputy Chief of Enforcement
22 Operations, claims that the field inspection program is an important part of the WSFW’s
23 efforts to maintain the fisheries for the use and enjoyment of all the citizens in the state.
24 Dkt. 51, Declaration of Mike Cenci (“Cenci Decl.”), ¶ 4.

25 Between 6:00 a.m. and 7:45 a.m., Officer Cenci was located on a hill overlooking
26 the Skamokawa Bridge. *Id.* ¶ 9. From there he observed three fishing vessels unloading
27 fish in an area that is commonly known for that activity as well as for fish selling and
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1 purchasing. *Id.* Officer Cenci recognized plaintiff Matthew Tarabochia (“Matthew”)
2 when he backed up a pickup to a fishing vessel. *Id.* ¶ 10. Officer Cenci observed some
3 activity with a fish tote in the back of the pickup. *Id.*

4 At about 7:20 a.m., Officer Cenci called Officer Chadwick who was located a
5 short distance away and told him that salmon had been loaded into a black 2004 Chevy
6 pickup. *Id.* ¶ 12. Officer Chadwick parked his vehicle a short distance away and waited
7 for the 2004 Chevy pickup to drive by. Chadwick Decl., ¶ 8. At 7:48 a.m., the pickup
8 passed Officer Chadwick, who pulled out from his parking spot and proceeded to follow
9 the truck. *Id.* ¶ 9. Officer Chadwick eventually pulled up behind the pickup, activating
10 his emergency lights, which included red and blue lights along with corner strobe lights
11 and wigwag headlights. *Id.* The pickup did not stop. *Id.*

12 Officer Cenci joined the pursuit of the pickup. He drove his vehicle around
13 Officer Chadwick’s vehicle and the pickup. Cenci Decl., ¶ 14. The officers were
14 eventually able to slow and stop the pickup. *Id.*

15 The officers approached the pickup and ordered Plaintiffs to exit the vehicle. *Id.*
16 ¶¶ 14, 15. Officer Cenci claims that he repeatedly gave the driver of the pickup,
17 Matthew, loud, clear commands to unlock the pickup and exit the vehicle. *Id.* ¶ 15.
18 Despite those requests, Matthew refused to unlock or exit the pickup. *Id.*

19 After a few minutes, Wahkiakum County Sheriff deputies arrived on the scene as
20 well as WSWF Officers Hopkins and Rhoden. *Id.* ¶ 16. Matthew eventually opened his
21 door and Officer Cenci took him into custody. *Id.* The passenger in the front seat,
22 Joseph, opened his door and Officer Rhoden took him into custody. Dkt. 53, Declaration
23 Brad Rhoden, ¶ 10. Both Matthew and Joseph were transported to the Wahkiakum
24 County Jail and charged with avoiding a field inspection, obstruction of justice and
25 resisting arrest. *Id.* ¶ 13. The charges were dismissed by the Superior Court of the State
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1 of Washington because the stop violated certain state statutes governing the authority of
2 WSWF officers. Dkt. 54 at 4-9.

3 **III. DISCUSSION**

4 Motions for reconsideration are governed by Local Rule CR 7(h), which provides
5 as follows:

6 Motions for reconsideration are disfavored. The court will ordinarily deny
7 such motions in the absence of a showing of manifest error in the prior
8 ruling or a showing of new facts or legal authority which could not have
been brought to its attention earlier with reasonable diligence.

9 Local Rule CR 7(h)(1).

10 In this case, Defendants move for reconsideration on the grounds that Plaintiffs'
11 remaining claim is time-barred. Dkt. 80. This is a new argument, is not a manifest error
12 of law in the previous order, and may be brought by subsequent motion.

13 **IV. ORDER**

14 Therefore, it is hereby **ORDERED** that Defendants' motion for reconsideration
15 (Dkt. 80) is **DENIED**.

16 DATED this 11th day of August, 2011.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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